

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

LENNARD BABB,)	
)	
PETITIONER)	
)	
v.)	CRIMINAL No. 07-89-P-H
)	
UNITED STATES OF AMERICA,)	
)	
RESPONDENT)	

**ORDER ON DEFENDANT’S MOTION TO
MODIFY/REDUCE THE TERM OF IMPRISONMENT**

I signed the Judgment and Commitment (Docket Item 28) for this defendant on April 2, 2008, after imposing sentence on the previous day. The court of appeals affirmed the sentence February 19, 2009, and the mandate issued on March 13, 2009. U.S. Court of Appeals Judgment & Mandate (Docket Item 40). I denied a previous motion to reduce sentence that the defendant had filed based ostensibly in the change in the Guideline calculations for crack cocaine. I ruled on October 1, 2008, that the original sentence was imposed “when the lower crack cocaine guideline was already in effect,” and therefore that there was “no basis for reducing his sentence now.” Order Denying Mot. to Reduce Sentence (Docket Item 38). The defendant filed still another motion to reduce his sentence on June 24, 2009. Mot. to Modify/Reduce the Term of Imprisonment (Docket Item 42). He says that it is based upon “the unwarranted ethic [sic] sentencing

disparity created by the 100 to 1 ratio used to sentence, that is in violation of the 18 U.S.C. § 3553(a) sentencing factors.” Id. at 1.

The motion is **DENIED**. I have no jurisdiction now to alter his sentence. The court of appeals has already affirmed the sentence, it is not based upon the old 100 to 1 rate, and the Sentencing Commission has not created any new, retroactive guideline, that would affect it.

SO ORDERED.

DATED THIS 26TH DAY OF JUNE, 2009

/s/D. BROCK HORNBY

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE